

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

EDWIN FRANCISCO SANCHEZ,

Defendant.

CASE NO. 8:07CR378

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 30). The government has adopted the PSR. (Filing No. 29.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The plea agreement provides that the base offense level is 20 pursuant to U.S.S.G. § 2K2.1(a)(4)(B) “and further agree that no other enhancements apply.” The PSR applies a 2-level enhancement pursuant to U.S.S.G. § 2K2.1(b)(3)(B) (destructive device). The Court’s tentative findings are that, absent unusual circumstances, the plea agreement should be upheld and the total offense level should be calculated as level 17.

IT IS ORDERED:

1. The Court's tentative findings are that the Defendant's objections to the Presentence Investigation Report (Filing No. 30) are granted;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 21st day of May, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge